

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

WILLIS JEAN BROWN )

Plaintiff, )

vs. )

FRESENIUS USA MANUFACTURING, INC. )

d/b/a )

FRESENSIUS MEDICAL CARE OF NORTH )  
AMERICA )

Case No. 4:22-cv-529

d/b/a )

FRESENIUS MEDICAL CARE )

d/b/a )

FRESENIUS KIDNEY CARE LEAWOOD )

Defendant. )

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant Fresenius USA Manufacturing, Inc.<sup>1</sup> (“Defendant”), by and through counsel, as and for its Notice of Removal of this action to the United States District Court for the Western District of Missouri, states as follows:

1. A civil action (hereinafter, the “State Court Action”) has been brought and is now pending in the Circuit Court of Jackson County, Missouri, entitled *Willis Jean Brown v. Fresenius USA Manufacturing, Inc. d/b/a Fresenius Medical Care of North America d/b/a Fresenius Medical*

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<sup>1</sup> Defendant notes the parties named in the Petition are incorrect and no valid service of process has been made to the proper entity. Defendant is making this limited, special appearance solely to invoke this Court’s removal jurisdiction. In doing so, Defendant reserves the right to assert any and all defenses in its responsive pleadings, including but not limited to lack of personal jurisdiction, insufficient process, and insufficient service of process.

*Care d/b/a Fresenius Kidney Care Leawood*, Case No. 2216-CV14973, in which Plaintiff alleges negligence by Defendant during a visit to a dialysis clinic known as Fresenius Kidney Care Leawood Dialysis in Leawood, Kansas.

2. All records and proceedings from the State Court Action are annexed hereto collectively as **Exhibit A**.

3. The State Court Action is an action over which this Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(a)(1), in that it is a civil action wherein the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different states.

#### **The Amount in Controversy is Satisfied**

4. The jurisdictional amount is satisfied because the Petition pleads damages “in excess of \$25,000” and prior filing the Petition, Plaintiff’s counsel issued a demand letter in which he stated Plaintiff’s damages are \$100,000. Plaintiff therefore cannot demonstrate to a legal certainty that the claim is for less than \$75,000. *Turntine v. Peterson*, 959 F.3d 873, 881 (8th Cir. 2020).

#### **The Parties are Completely Diverse**

5. The parties are citizens of different states.

6. Based upon the allegations of the Petition, Plaintiff is domiciled in and a resident of Jackson County, Missouri.

7. Defendant is not a citizen of the State of Missouri.

8. Defendant is a foreign corporation organized and existing under the laws of Delaware with its principal place of business at 920 Winter Street, Waltham, Massachusetts 02451.

**This Notice is Procedurally Proper**

9. This Notice of Removal is timely under 28 U.S.C. § 1446(b) because it is filed by Defendant within 30 days of receipt of process.

10. Pursuant to 28 U.S.C. § 1446(d), a true and complete copy of this Notice of Removal is being filed with the Clerk of the Circuit Court of Jackson County, Missouri.

11. Pursuant to Local Rule 3.2(a)(2), Defendant brings this matter in the Court's western division.

WHEREFORE, Defendant removes this action to the United States District Court for the Western District of Missouri.

By: /s/ Tyson Ketchum  
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ATTORNEYS FOR DEFENDANT

### **CERTIFICATE OF SERVICE**

I hereby certify that on Monday, August 15, 2022, the foregoing was filed electronically with the Court, and a copy served by electronic mail to:

David W. Whipple  
201 N. Spring Street  
Independence, Missouri 64050  
Telephone: 816-842-6411  
Facsimile: 816-842-6463  
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ATTORNEY FOR PLAINTIFF

/s/ Tyson Ketchum  
Attorney for Defendant